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Docket Number FAA-1998-4521. - 1479

1. According to the NPRM item 1B, the bulk of FAA's concern for safety of commercial air tour operators is with helicopters, helicopters flying over water and multi engine fixed wing aircraft carrying revenue passengers. Only one accident involving a single engine biplane was cited (page 60574, column 2) but it doesn't indicate if the flight was conducted under Part 91. All the other accidents cited are helicopters, multi-engine fixed wing type aircraft and over water tours.

2. As the proposed rule is written, it uses the shotgun approach to rule making. A better way would be to identify the specific areas where the chance for real improvements in safety may be made. These are primarily in operations that are already Part 135 and include helicopter operations flying over water with no floats or life preservers, multi-engine aircraft flying into IFR conditions, etc. The safest thing to do is to scrap the whole idea of putting small Part 91 operators under Part 135 and deal with these other problems, particularly with helicopter operations, specifically over water.

3. This proposed rule would essentially eliminate an important and historic part of America's aviation culture. The ability to go to an airport and buy an airplane ride has been a part of aviation in America for nearly 100 years and should not be taken from the American people through poorly considered, heavy handed over regulation.

4. There is no statistical data which can lead one to conclude that FAR 119.1(e)(2) local sightseeing rides for compensation, operating under the general aviation rules of Part 91, would be any safer if required to become a certified air carrier or commercial operators under Part 135. In fact the preponderance of information in the NPRM suggests that operations Part 91 may well be *safer* than Part 135 air tour operations.

5. The data used to justify lifting the sightseeing exemption and require the operators to be certified as Part 135 are a jumble of Part 135 and Part 91 accident reports. But of the 11 accidents cited in the NPRM, eight occurred in Hawaii, and most were apparently already operating as Part 135 flights.

6. From the FAA's "Preliminary Regulatory Evaluation" data of the total fatalities (102) from 1993 thru 2000, 17.64%, or 18, were a result of fixed wing single engine Part 91 operations (4 more were in a Piper twin, 11 were helicopters). Using the FAA's own data on "hours per year flown" by Part 91 and 135 operators as a constant (per year for eight years) we see *the Part 91 fixed wing fatality rate is nearly half that of the Part 135 operators* per million hours flown: Using the 8 year total estimated Part 91 hours flown, less estimated Part 91 helicopter hours, one derives a fixed wing fatality rate of .0000273 fatalities per Part 91 hour (18 fatalities / 105,500 Part 91 hours – 23,172 estimated helicopter hrs. = 82,328) x 8 years = .0000273 per hour; or 27.32 fatalities per million hours). By contrast combined fixed wing and helicopter Part 135 operators experienced a fatality rate of .0000518 per hour, or 51.8 fatalities per million hours over the same period (assuming 91 fatalities / 219,530 hrs. x 8 years). Combining all Part 91 aircraft (single engine fixed wing, multiple engine and helicopters) still yields a significantly lower accident rate per million hours flown when compared to Part 135 operators (39.1 vs. 51.8).

7. By its own data, with a Part 91 fatality rate that is *barely over half* that of Part 135 operations, why does the FAA even suggest making Part 91 fixed wing operators convert to Part 135? Having twice as good a safety record is hardly a reason to eliminate an entire segment of the aviation industry. Yet this is what will happen by essentially prohibiting the operation of the more than 3,000 Part 91 sightseeing aircraft through unnecessary regulation. According to the FAA's own "Preliminary Regulatory Evaluation," there are 3,100 Part 91 sightseeing aircraft, generating $60,030,000 in revenue per year, flying over 105,500 hours per year (including helicopters). Even these numbers, by FAA admission in its Preliminary Regulatory Evaluation, "likely underestimates the affected aircraft population." All this while the FAA data shows that Part 135 operators have been responsible for 67+% of the fatalities in the 8 year period studied.

8. The proposed rule entails meeting onerous and expensive air carrier criteria. These include manuals, meeting more stringent training and equipment requirements, complying with flight crewmember flight and duty time rules, reporting, record keeping, flight locating, etc. Virtually no historic, vintage aircraft or small ride givers with other light aircraft can realistically meet Part 135 regulations. It will simply eliminate local airplane rides for hire.

9. The statistics cited by the FAA notes between 1993 and 2000 Part 135 commercial air tour operators experienced *nearly twice* the number of fatalities than did general aviation part 91 operators. Further analysis actually shows that between 1993 and 2000, seven people died in Part 91 vintage sightseeing aircraft accidents. *Seven* people in 8 years. Even on a flight hour basis, sightseeing airplanes had a 25% lower accident rate, and a 60% lower fatality rate than all forms of general aviation flying.

10. The result of implementing FAA-1998-4521 would be the elimination of "barnstorming" as we know it. In the process tens of thousands of people will be deprived each year the opportunity to experience golden age, classic and vintage military aircraft by riding in such aircraft at airshows, county fairs or just for the fun of going to a local airport where such rides are offered.

11. This proposed rule has the unfortunate consequence of eliminating the opportunity to experience golden age, classic and vintage military aircraft when it is intended to address the NTSB concerns about, and recommendations for, better regulation of commercial sightseeing by air.

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12. Virtually no historic or vintage aircraft can meet Part 135 regulations and the burden on the owner/operator of such aircraft to write manuals, become certified, keep records, and operate under Part 135 rules imposes a severe economic burden that few would chose to meet even if the aircraft qualified under Part 135.

13. Since 1992, the EAA Young Eagles program has carried more than 1,000,000 kids with a superb safety record. These flights are made in private aircraft, by private pilots. These pilots covered a very wide range of flight time, age and ratings. The flights were conducted in their local areas and were not Part 135 operations. There have been over 500,000 flights flown, carrying an average of just over 2 passengers. There is one associated fatality recorded and that was on a subsequent flight by a volunteer, not a first time flight.

14. Many golden age, classic or vintage military aircraft cannot qualify under Part 135. Foreign type-certified and many ex-military aircraft do not hold standard category US airworthiness certificates. People will simply be deprived the right purchase a ride in these aircraft.

15. Rides sold in historic aircraft not only allow citizens to experience them first hand but also contribute to the preservation of the aircraft themselves. We must preserve these aircraft and fly them as part of our national aviation heritage. Barnstorming provides a revenue stream to owners/operators of such aircraft. While some barnstorming is done as a full-time business, many barnstorm not so much for profit but for the preservation of unique historical aircraft.

16. This NPRM will likely shrink the pool of pilots able to help local charities with fundraising flights and, by the FAA's own admission, will drive hundreds of small sightseeing operations out of the business. This is not the way to improve safety, particularly when it has been shown that the problem is not with the Part 91 operators but principally with Part 135 helicopters.

17. As for charitable flights, the proposal would raise the minimum number of hours required for pilots conducting charity fundraising flights from 200 to 500, yet no safety data or statistics have been provided to justify the jump in flight hours required to conduct charitable fundraising flights.

18. The proposal to amend 14 CFR to create a new part 136 includes an exemption for Part 91 operators for charitable rides but restricts those to "4 events per organization per year with each event lasting no longer than 3 days or one event lasting 3 days or fewer..." What is the sense in this? If the regulators are convinced these flights are so dangerous, why allow them at all? Apparently the authors of this proposed regulation feel safety is enhanced through the blanket restriction of flying. If that is the case, why allow anyone to fly at all? If there is no flying then there can be no accidents. The elimination of flying as a solution to eliminate accidents is unacceptable. This idea itself is great concern. Why not apply the same logic to all forms of transportation, airliners to automobiles: restrict the number of days they can operate and you will reduce the accident rate. Applying the idea in reverse, if it is safe enough to operate 4 events per year up to 3 days per event, why is it not safe enough to operate 365 days a year?

19. The same charitable flight exemption goes on to require the charitable pilot to have 500 hours of flight time. Is that it, what sense is found in that number? Is that 500 hours in the last 50 years? What about the recency of the flight time or time in type? This simple 500-hour requirement demonstrates that insufficient thought has been give this particular rule and, when combined with similar regulatory solutions, casts significant doubt on the logic applied to the proposed rule in its entirety.

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